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IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated this the 4th day of June 1998.

Before

THE HON'BLE MR. JUSTICE KUMAR RAJARATNAM

WRIT PETITION No. 30839 OF 1996

Between:

1. Smt.B.R.Shivalingamma
W/o Sri G.Shivappa,
42 years, R/at N.M.C.
II Cross Left side,
Halenagar, Bhadravathi. 519
2. G.Shivappa S/o
Mahadevappa, 50 years,
R/at N.M.C.II Cross
Leftside Halenagar
Bhadravathi, Shimoga Dist. Petitioners

(By Sri B.Rudragowda, Advocate)

And:

1. The Karnataka Appellate
Tribunal by its Registrar
M.S.Buildings, Bangalore.1
2. The House building Co-operative
Society Ltd., Halenagara Bhadravathi,
Shimoga District by its
Secretary.
3. The Asst. Registrar of Co-
operative Societies, Shimoga
Sub-division, Shimoga. .. Respondents.

(By Sri Vishwanath L.Poojari K. Advocate for R-2)

(By Sri Veerappa B. H.C.G.P for R-1 and 3)

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This writ petition is filed under Articles 226 & 227 of the Constitution of India praying to quash Annexure 'B' dated 21-8-1995 and Annexure 'C' dated 4-11-1996 and direct the respondents to give deductions of the amounts paid by the petitioners and to calculate the rate of interest at 9.5% instead of 12.5%

This writ petition is coming on for Prly. hearing in B' Group today, the Court made the following:

O R D E R.

1. This Writ Petition is taken up with the consent of parties.
2. The petitioners challenge the order passed by the Tribunal in Appeal No.210/94. The first respondent-Tribunal directed the petitioners to pay a sum of Rs.16,917/- *which was confirmed in appeal.*
3. From a perusal of the records it is apparent that the petitioners have paid a sum of Rs.1,500/- on 30-5-1996 and Rs.500/- on 6-12-1990 and by an interim order passed by this Court a sum of Rs.5000/- was paid on 26-12-1996. In all a sum of Rs.7,000/- has been paid. The total amount borrowed was Rs.8,000/-.

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4. The Bank is at liberty to proceed against the petitioners after giving credit to the amounts paid by the petitioners. In the peculiar facts and circumstances of the case and taking into account the plight of the petitioners and also taking into account the ready realisation by the bank, the ^{rate} ~~scale~~ of interest shall be scaled down from 12.5% to 9.5% on the principal sum of Rs.8,000/-.

5. Accordingly the award is modified to the extent that the petitioners are liable to pay the principal amount of Rs.8000/- along with interest at 9.5% on the principal from the date of loan till the date of realisation. While calculating the amount a sum of Rs.5000/- paid by the petitioners on an interim order passed by this Court on 19-12-1996, be given credit to.

6. The award is modified accordingly.

The petitioners have undertaken to pay the balance amount within three months from the date of receipt of this order, *without further litigation*.

7. This writ petition is disposed of accordingly. There will be no order as to costs.



Sd/-
JUDGE